

### **REMARKS**

Claims 1-4 and 6-26 are pending, of which claims 8-26 have been withdrawn from consideration in the present application, and claims 1-4, 6 and 7 have been rejected. Applicant has amended claims 1-4, 6 and 7, cancelled claims 20-26 and added claims 27-38 and respectfully requests the allowance of claims 1-4, 6, 7 and 27-38.

### **Interview Summary**

The undersigned attorney wishes to express his sincere appreciation to the Examiner for the telephonic interview on July 17, 2008, regarding the present application. Specifically, claim rejections under 35 U.S.C. §§ 112(1), 112(2) and 103(a) and Restriction Requirement were discussed. The Examiner indicated that rejections under 35 U.S.C. §§ 112(1) and 112(2) might be overcome is references to "Chinese traditional medicine" were removed and that the rejections under 35 U.S.C. § 103(a) might be overcome if the recited conditions for extraction were deemed simultaneous. Regarding the Restriction Requirement, the Examiner indicated that she might consider method claims recited certain steps being carried out by the devices claimed in the withdrawn apparatus claims. However, no agreement was definitively reached.

### **Restrictions Requirement**

The Examiner objected to the amendment to the withdrawn claims 8-26 and new claims 20-26 as being directed to an invention that is independent or distinct from the invention originally claims. Applicant has now again withdrawn claims 8-26 and cancelled claims 20-26. The Examiner's objection in this regard is therefore moot.

### **Amendment to the Specification**

The Examiner objected to the Specification and required a new Specification. Applicant has now provided a new Specification and believes that the Examiner's objections have been properly addressed.

### **Claims Objections**

The Examiner objected to claim 1 for certain informalities. Applicant has now amended claim 1 to either remove or correct the offending portions thereof, and respectfully requests the withdrawal of the objections.

### **Rejections Under 35 U.S.C. §112**

Claims 1-4, 6 and 7 have been rejected under 35 U.S.C. §112, first paragraph as failing to meet the description requirement. Specifically, the Examiner objected to the recitation of “Chinese traditional medicines and plants” and “active ingredients” as lacking predictability. However, Examiner also pointed out that “[i]f the method was generically toward extraction of plants, Applicant’s arguments may be persuasive.” *Office Action* at page 6. Applicant has now amended claim 1 to recited generically an “animal product or plant product” and “an extraction fluid”. The support for the recitation of “animal product or plant product” can be found at least at page 4, lines 12, and 15-16; page 6, lines 1-9 and page 9, line 30-page 20, line 2. Applicant therefore respectfully submits that the rejection of claims Claims 1-4, 6 and 7 under 35 U.S.C. §112, first paragraph has been overcome and requests the withdrawal of the rejection.

Claims 1-4, 6 and 7 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicant has amended the claims to overcome the rejection, as follows:

First, the Examiner objected to “and then extracting” in claim 1, because the Examiner contended that it was not clear that the extraction was being carried out on the plant/medicine material. Applicant has now amended claim 1 to recite “then extracting at least one of water-soluble substance and fat-soluble substance from the animal product or plant product”. Proper antecedent basis is believed to be now provided.

Second, the Examiner objected to the recitation of “Chinese traditional medicines” and being indefinite. Applicant has not removed the references to this phrase.

Third, the Examiner objected to the recitation of “obtaining a [sic] extract with contains the active components...” as being indefinite. Applicant has now amended claim 1 to recite “obtaining an extract fluid” and removed references to “active components”.

Fourth, the Examiner objected to the use of “~” in the numerical ranges as being unclear in its meaning. As discussed during the interview and as the undersigned attorney understands the Examiner to have agreed, the use of “~” in the claims resulted from translation errors of the claims in the PCT application of which the present application is a national stage application. The “~” should have been “-”, indicating numerical ranges. Applicant has now so amended claims.

Fifth, the Examiner objected to the recitation in claim 6 of “carrying out the direct liquid package”. Applicant has now amended claim 6 to recite “packaging the said extraction fluid” and believe the meaning of the phrase is clear.

Six, the Examiner objected to the recitation in claim 7 of “the” in “steps of the concentrating and drying the said extraction liquid” as lacking antecedent basis. Applicant has now amended claim 7 to remove the offending recitation of “the”.

Applicant therefore respectfully requests the withdrawal of the rejection of claims 1-4, 6 and 7 under 35 U.S.C. § 112, second paragraph.

### **Rejections Under 35 U.S.C. §103**

Claims 1-4, 6 and 7 have been rejected under 35 U.S.C. § 103(a) as unpatentable over multiple references, each rejection as least being based on a combination of *Wang* (U.S. 4,018,755) and *Bloom* (U.S. 5,902,224). Applicant respectfully traverses the rejection.

As previously presented, claim 1 recites the conditions for extraction: frequency range, pressure range and temperature range. The claim language is most reasonably read, both by its plain meaning and in light of the specification, to require that the conditions are simultaneously satisfied. To further clarify the claim, Applicant has now amended claim 1 to recite that “the extracting step is carried out under the *simultaneous* conditions of...” (emphasis added.) In contrast, *Wang* discloses a two-step process in which sonification is carried out first, followed by solid/liquid separation by centrifuge. *Bloom* discloses a gas centrifuge. Thus, assuming, for the sake of argument, that *Wang* and *Bloom* could be properly combined, the combination would fail to disclose or suggest extraction under the simultaneous conditions of frequency range, temperature range and pressure range.

Furthermore, none the additional reference cited by the examiner discloses or suggest the simultaneous imposition of the aforementioned conditions in extraction process.

For at least these reasons, Applicant respectfully requests the withdrawal of the rejection of claims 1-4, 6 and 7 under 35 U.S.C. § 103(a).

### **New Claims**

New claims 27-38 have been added. Claims 27-37 are method claims in which the extraction step is carried out using the apparatus claimed in certain of claims 8-19. Claim 38 further limits claim 1 to extraction from angelica, which the examples in the specification expressly provide.

Summary


In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.



Date: July 21, 2008

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

  
\_\_\_\_\_  
Tong Wu  
Reg. No. 43,361  
TW/cjc